

**BOARD OF APPEALS CASE NO. 4871**

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**BEFORE THE**

**APPLICANT: Nancy Anderson**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to construct a deck  
within the Natural Resource District;  
765 Burgh Westra Way, Abingdon**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 11/11/98 & 11/18/98**

**HEARING DATE: December 28, 1998**

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**Record: 11/13/98 & 11/20/98**

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Nancy Anderson, is requesting a variance pursuant to Section 267-41(D)(2)(c) of the Harford County Code to construct an attached deck within the Natural Resources District in an R1 District.

The subject parcel is located at 765 Burgh Westra Way, Abingdon, MD 21009, within the subdivision known as The Cedars, Plat II, and is more particularly identified on Tax Map 57, Grid 4A, Parcel 331. The property consists of 0.069 acres, is presently zoned R1 and is entirely within the First Election District.

The Applicant, Nancy Anderson, appeared and testified that her townhouse was originally built with a second floor walkout with sliding door; however, use of the walkout requires a deck of some sort. The NRD District runs to within 3 feet of the Applicant's dwelling and no deck could be constructed without encroachment into the NRD area. The proposed deck would be 12 feet by 20 feet and would be entirely within the NRD District. The Applicant presented photographs indicating that all of the adjacent and neighboring homes have similar decks. The Applicant did not believe that the proposed deck would result in any material impacts to neighboring properties. She did opine that her property was unique in that every other house with a deck had the deck built when the house was constructed.

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Mr. George Sampson appeared on behalf of the Applicant. Mr. Sampson is president of the Community Association serving The Cedars, Mr. Sampson testified that the basement slab is actually within the NRD District now and that virtually the entire back yard is within the NRD District. He testified further that these homes were built with walkouts to accommodate future decks. Most, if not all, of the other homes, had decks attached during the initial construction phase. The Anderson deck would be much like others existing in the neighborhood and should have no adverse impacts.

There were no persons who appeared in opposition to the request. The Department of Planning and Zoning recommends approval of the request.

### **CONCLUSION:**

Section 267-41(D)(2)(c) provides:

**Streams:** the following streams, including Broad Creek, Bynum Run, Carsins Run, Deer Creek, Grays Run, Ahha Branch, Herring Run, Little Gunpowder Falls, Rock Run, Peddler Run, Swan Creek, Winters Run and their tributaries, as identified on the Harford County Hydrology Map (1976 Revised Maryland Geological Survey Base Map 1:62,500). Tributaries to the above streams which drain a subbasin of more than four hundred (400) acres are included in the Natural Resources District stream designation. The acreage of a subbasin is determined at the point of confluence with another stream identified on the County Hydrological Map. The Natural Resources District area for stream protection shall be a minimum distance of one hundred fifty (150) feet on both sides of the center line of the stream or fifty (50) feet beyond the one-hundred-year floodplain, whichever is greater, and along their tributaries for a minimum of seventy-five (75) feet on both sides of the center line of the tributary. The Natural Resources District boundaries under this provision shall include the buffer requirements of Subsection D(4)(b) and (5)(b) of this section.

The Harford County Code, pursuant to Section 267-11, permits area variances provided the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.

The Hearing Examiner finds that the subject property is topographically unique, having

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virtually all of its rear yard located within the NRD district. Additionally, the other homes in the neighborhood all have decks similar to that requested by the Applicant. According to the Department of Planning and Zoning, this area of NRD is mostly grass, trees and plantings. None of the trees will be removed as a result of the deck construction and little if any other disturbance to the NRD will occur. Moreover, depriving this homeowner of the right to build a deck similar to the others in the neighborhood would deprive this owner of rights commonly enjoyed by other similarly situated property owners.

For the reasons stated above the hearing Examiner recommends approval of the requested variance subject only to the Applicant obtaining all necessary permits and inspections.

Date JANUARY 26, 1999

William F. Casey  
Zoning Hearing Examiner